



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OPC

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* ("Act") for:

- an order of possession for cause, pursuant to section 55.

The tenant did not attend this hearing, which lasted approximately 10 minutes. The landlord attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

This hearing began at 11:00 a.m. and ended at 11:10 a.m. I monitored the teleconference line throughout this hearing. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord and I were the only people who called into this teleconference.

The landlord confirmed his name and spelling. He stated that he owns the rental unit and confirmed the rental unit address. He provided his email address for me to send a copy of this decision to him after the hearing.

At the outset of this hearing, I informed the landlord that recording of this hearing was not permitted by anyone, as per Rule 6.11 of the Residential Tenancy Branch ("RTB") *Rules of Procedure* ("Rules"). The landlord affirmed, under oath, that he would not record this hearing.

At the outset of this hearing, I explained the hearing process to the landlord. He had an opportunity to ask questions. He did not make any adjournment or accommodation requests.

The landlord stated that he last saw the tenant at the rental unit approximately three weeks prior to this hearing.

#### Preliminary Issue – Service of Landlord's Application

The landlord testified that the tenant was served with a copy of the landlord's application for dispute resolution hearing package by way of posting to the tenant's door on September 28, 2021.

I asked the landlord how he served the tenant with the landlord's application on September 28, 2021, when the application was filed on October 16, 2021. The landlord then claimed that he served his evidence package to the tenant on October 23, 2021, by way of posting to the tenant's door. When I asked the landlord how he served his application for dispute resolution and notice of hearing, he claimed that it was also on October 23, 2021, by way of posting to the tenant's door.

During this hearing, I informed the landlord that his proof of service, submitted as evidence, provided different information than his testimony. The landlord's signed, witnessed proof of service states that the landlord served the tenant in person with the landlord's application on October 23, 2021. The landlord continued to insist that the tenant was served by way of posting to the rental unit door.

I find that the landlord did not provide sufficient evidence that he served the tenant with the landlord's application for dispute resolution hearing package, as required by section 89 of the *Act* and Rule 3.1 of the *RTB Rules*. The landlord provided multiple service dates of September 28 and October 23, one of which is prior to the landlord's application being filed on October 16, 2021. The landlord's own signed, witnessed proof of service states that the tenant was served in person, while the landlord's testimony at this hearing indicates that he served the tenant by way of posting to the door. The tenant did not attend this hearing to confirm service of the above documents.

The landlord was given ample time during this hearing in order to look up information and to provide the correct date and method of service.

The landlord had ample time from filing this application on October 16, 2021, to this hearing date of February 28, 2022, a period of over four months, to provide the above information.

I notified the landlord that his application was dismissed with leave to reapply. I informed him that he could file a new application if he wants to pursue this matter in the future. The landlord confirmed his understanding of same.

### Conclusion

The landlord's application is dismissed with leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: February 28, 2022

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Residential Tenancy Branch